

# GUIDELINES FOR ACQUISITIONS AND RELOCATIONS

*The following “Guidelines for Acquisition and Relocation Projects” is from the January 1995 FEMA document and policy guidelines developed by FEMA and adapted for use within Washington State. It does not supercede or replace local, state, or federal laws and regulations relating to property transactions or environmental regulations. ed.*

---



## FEMA HAZARD MITIGATION GRANT PROGRAM

GUIDELINES FOR ACQUISITION AND RELOCATION PROJECTS  
(Original publication date - January 1995)

## Table of Contents

A. Introduction .....	3
B. Non-Participating Communities .....	3
C. Environmental .....	4
1. Type of Documentation Required .....	4
2. Coordination with Other Federal Agencies .....	4
3. Hazardous Materials Concerns .....	4
D. Coordination with Other Programs/Agencies .....	5
E. Property Appraisal and Negotiation .....	5
F. URA and Relocation Assistance .....	6
1. Applicability of the URA .....	6
2. Mandatory URA Assistance for Displaced Tenants .....	6
G. Disposition of Property .....	7
1. Property Title and Reconveyance .....	7
2. Deed Restrictions and Applicant Responsibility .....	8
H. Treatment of Agricultural Properties .....	9
I. Duplication of Benefits .....	10
J. Costs and Matching Considerations .....	11
Questions and Answers Regarding Allowable Costs and Matches.....	12
<b>Figure 1      Acquisition and Relocation Programs</b> <b>Applicant Assistance Decision Tree</b> .....	14
Addendum 1: 44 CFR §206 RIN 3067-A .....	15
Addendum 2: Sample Acquisition Letter .....	20
Addendum 3: Sample Voluntary Transaction Agreement.....	23
Addendum 4: Attachments to Deeds.....	26

## INTRODUCTION

Through the HMGP, the state and FEMA can provide funding to an eligible applicant for the purpose of acquiring property in hazardous areas and/or relocating structures to new sites. To be eligible for HMGP assistance, this type of project should meet the following minimum requirements (in addition to the standard HMGP eligibility requirements found at 44 CFR §206 Subpart N):

1. The community must inform prospective participants in writing that it will not use its condemnation authority to acquire their property should negotiations fail and property owners must voluntarily elect to participate in the program;
2. The deed to the property acquired (or from which structures will be removed) will carry a restriction that the property will be maintained as open space in perpetuity, and that no future federal disaster assistance will be made available to it; and
3. Any relocated structures will be placed on sites located outside of the 100-year floodplain and any regulatory erosion zones, and in conformance with any other applicable state or local land use restrictions. Critical facilities must be located outside the 500-year floodplain.

Generally, HMGP funded property acquisition projects consist of a community purchasing flood-damaged homes and either demolishing them or physically moving them to a new site outside of the floodplain. The purchased property is then maintained for open space purposes. While some communities may elect to develop a new site outside of the floodplain for participating residents to move to, FEMA encourages communities to opt for the simpler acquisition and structure removal model. These projects require only minimal environmental review, are considerably less expensive, and allow homeowners to determine where to relocate. This guidance is generally aimed at acquisition/structure removal projects.

## B. NON-PARTICIPATING COMMUNITIES

HMGP grants for acquisition of flood-prone property cannot be made available in certain communities which do not participate in the National Flood Insurance Program (NFIP). Federal grants cannot be given for acquisition or construction purposes if the site is located in a designated special flood hazard area which has been identified by the Director for at least one year and the community is not participating in the NFIP. However, if the community qualifies for and enters the NFIP during the six-month period following the major disaster declaration, a grant application may be considered by the state. FEMA recommends that the states give priority to those communities that were participating in good standing in the NFIP before the disaster and are complying with NFIP requirements during reconstruction.

## **C. ENVIRONMENTAL REVIEW**

1. Type of documentation required to comply with the National Environmental Policy Act (NEPA), FEMA must conduct an environmental review of the proposed acquisition or relocation. Depending on the scope of the project, the review is documented in one of three forms:
  - a. A memorandum from the community indicating that the project is categorically excluded;
  - b. An Environmental Assessment (EA); or
  - c. An Environmental Impact Statement (EIS).

FEMA has published an amendment to its categorical exclusions (44 CFR §10) which excludes projects involving only the acquisition of properties and the demolition of structures from the need to perform an environmental assessment. Projects meeting this exclusion will generally require only a memorandum to the file, signed by the Regional Director, indicating the applicability of the categorical exclusion and compliance with other laws, such as the National Historic Preservation Act, the Endangered Species Act, and the Clean Water Act. FEMA and the state must coordinate with the State Historic Preservation Officer on all acquisition projects to ensure compliance with the Section 106 process. Projects involving actual structure relocations or new site developments will require an EA or EIS.

In addition to the elements identified at 44 CFR §10.9 and 10.10, the environmental review document should contain descriptions of how the project meets the minimum requirements listed above, how the project was coordinated with other programs and agencies, and what the disposition of the property and structures will be. If the project involves the physical relocation of a structure to a new site, the environmental review should discuss the impacts to both the old site and the new one.

2. Coordination with Other Federal Agencies. If other agencies or programs are also contributing to the acquisition or relocation of properties in the same area, one joint environmental review should be conducted. FEMA Mitigation staff should coordinate closely with the other involved program managers, especially those within FEMA. If several agencies are involved and the project scope warrants formal coordination, a lead agency should be designated in accordance with 44 CFR §10.7.
2. Hazardous Materials Concerns. If a community is considering purchasing commercial or agricultural property, it should ensure that the owner provides information identifying what, if any, hazardous materials are on the property. The community should require the owner to remove hazardous materials and containers, before purchasing such properties. FEMA funds should not be used to purchase contaminated property. The owner must certify that any contamination has been cleaned up to meet federal and state standards before the community can purchase any interest (including an easement for development rights) in the property. When the community purchases an easement for development rights only, the seller must agree to indemnify FEMA and the community for any liability arising from contamination of the property.

## **C. COORDINATION WITH OTHER PROGRAMS/AGENCIES**

Agencies and programs involved should coordinate joint acquisition or relocation projects to the greatest extent possible. When funds from other federal sources are used to match HMGP grants, both programs' requirements apply to the whole project. While FEMA is not responsible for ensuring this compliance for other agencies, coordination with the local program representatives is essential. The state, as grantee, is responsible for coordinating the various programs available within the state.

Because HMGP is a very flexible program in terms of specific procedures, it is beneficial to coordinate approaches and schedules with other programs involved. The objective should be to make the process as simple and consistent for the applicants and homeowners as possible.

## **D. PROPERTY APPRAISAL AND NEGOTIATION**

For each property identified for acquisition, the grantee or subgrantee should establish and document a fair market value. The value must be derived from a reasonable methodology that has been consistently applied throughout the community, such as independent appraisals, opinions of value, or a formula based on tax assessments. FEMA should coordinate with the state and the subgrantee (community) in their determination of whether the valuation should be based on pre- or post-flood market value. However, all appraisals in a given community (i.e., HMGP project area) should be based on the same terms.

FEMA should ensure that all property owners are treated fairly and are offered an equitable package of benefits. As detailed below in Section I, "Duplication of Benefits," the subgrantee must make certain deductions from the established fair market value before making a purchase offer. However, FEMA offers the state the option of providing a credit to property owners with flood insurance. In this case, the subgrantee would allow the property owner to retain an amount from the flood insurance claim settlement equal to up to 5 years of flood insurance premiums actually paid by the current property owner for a National Flood Insurance Policy for structure coverage. (Normally the subgrantee must deduct the entire flood insurance settlement awarded for structure repair from the purchase offer.) The amount retained would be in no case greater than the amount paid as claim settlement for building damage to the property; nor would it be more than premiums actually paid by the property owner for structure (as opposed to contents) coverage for the preceding five year period (See figure 1).

The acquiring entity (subgrantee) must inform each property owner of what it considers to be the fair market value of the property. The subgrantee may wish to set a time limit with the property owner for the validity of a purchase offer. If several different entities or programs are acquiring property in the same area, property owners may find it confusing if different offers are made to area owners at different times. To avoid any negotiation difficulties or confusion, the local community should coordinate the release of appraisal information and purchase offers to property owners for the various programs. If the current property owner purchased the flood-damaged property after the disaster declaration, then the community cannot offer the owner more than the post-flood fair market value, (i.e., the amount paid by the current owner for the damaged property.)

The subgrantee must conduct a title search for each property to ensure that there are no mortgages or liens outstanding at the time of sale. The grant agreement should include this stipulation.

## **F. URA AND RELOCATION ASSISTANCE**

### **1. Applicability of the URA**

The Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act mandates that property owners receive just compensation for their property and relocation assistance from federal acquisition programs. The URA also sets specific time limits and places other requirements on the acquiring agency. There are exceptions to the provisions of the URA, however, for voluntary transactions that meet the specific criteria found at 49 CFR §24.101 (a) - This exception requires that the acquiring agency (subgrantee) inform the property owner in writing:

- a. That it will not use its power of condemnation to acquire the property in the event negotiations fail; and
- b. What it believes to be the fair market value of the property.

Although HMGP projects must meet the above criteria for voluntary programs, thus allowing an exception to URA provisions, FEMA recommends that the property owner and the subgrantee sign a Voluntary Transaction Agreement (sample attached). This ensures that the property owner understands that they are not automatically eligible for additional relocation benefits beyond the purchase price of the property.

### **2. Mandatory URA Assistance for Displaced Tenants**

Tenants who must relocate as a result of acquisition of their pre-flood housing are entitled to URA relocation benefits (such as moving expenses, replacement housing rental payments, and relocation assistance advisory services), *regardless* of the owner's voluntary participation. For details on these requirements, see 49 CFR §24, Subpart C.

Tenant(s) displaced from a dwelling due to a FEMA funded acquisition project are entitled to rental assistance if:

- a. The tenant occupied the displacement dwelling for the 90 days preceding the negotiations for acquisition of the property; and
- b. The tenant rents or purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date he or she moves out of the original dwelling.

The amount of assistance the community must pay to the tenant is derived from 49 CFR § 24, Subpart E. The URA states that an eligible displaced tenant is entitled to:

- a. Reasonable out-of-pocket moving expenses; and
- b. Compensation for a reasonable increase in rent and utility costs incurred in connection with the relocation.

Compensation for rent increase shall be 42 times the amount which is obtained by subtracting the “*base monthly rent*” for the displacement dwelling from the monthly rent and average monthly cost of utilities for a comparable replacement dwelling, or the decent, safe, and sanitary replacement dwelling now occupied by the displaced person. The rental increase payment may not exceed a total of \$5,250. Communities may exceed this limit in extraordinary circumstances, if necessary to ensure that a displaced tenant will be able to obtain and retain a decent, safe, and sanitary comparable unit outside of the floodplain.

The “*base monthly rent*” for the displacement dwelling is the lesser of the average monthly cost for utilities plus the rent at the displacement dwelling as determined by the Agency, or 30% of the tenant’s (the URA regulations define tenant as any individual, family, partnership, corporation, or association) - average gross household income. A rental assistance payment may, at the subgrantee’s discretion, be disbursed in either a lump sum or in installments. However, if any HUD programs are providing partial funding for the project, rental assistance payments may not be disbursed in a lump sum. If the tenant chooses to purchase a comparable replacement dwelling, he or she may apply the amount of rental assistance to which they would be entitled towards the down payment.

## **G. DISPOSITION OF PROPERTY**

1. Property Title and Reconveyance--Depending upon the scope of the project, title to the property is treated in one of two ways:
  - Full title is acquired or accepted by a public entity (the community, a land trust organization, a state agency, etc.); or
  - The subgrantee acquires all development rights to the property, with the original owner retaining only the right to make use of the property for farming or quiet enjoyment.

The subgrantee or other public property owner will seek the approval of the state grantee agency and the FEMA Regional Director before conveying ownership of the property to any other party. The subgrantee or other public entity must retain all development rights to the property. The FEMA Regional Director will only approve the transfer of properties that meet the criteria identified above.

**Note:** In situations where the community is only acquiring development rights to the property, they can provide the property owner an additional incentive to accept the offer by:

- a. Paying to physically relocate the damaged structure to a new site outside of the floodplain;

**Or**

- b. Paying the pre-flood value of the structure and demolition and removal costs.
2. Deed Restrictions and Applicant Responsibility--As a condition of receiving the grant, the applicants (community and state) shall enter into an agreement with FEMA that assures:
- a. The property acquired, accepted, or from which structures are removed must carry a permanent deed restriction providing that the property be maintained for open space, recreational, or wetlands management purposes only.
  - b. The deed restriction must also stipulate that no future disaster assistance for any purpose from any federal source will be sought or provided with respect to the property (Insurance claims such as NFIP and Federal Crop Insurance are not considered disaster assistance).
  - c. The deed restriction must also stipulate that no new structures will be erected on the property other than a public facility that is open on all sides or is a rest room and is functionally related to open space (structures that are walled on all sides must meet NFIP minimum requirements).
  - d. In fee simple transactions, the deed restriction must also stipulate that the new title-holder must obtain the approval of the state grantee agency and the FEMA Regional Director before conveying ownership of the property to another public entity. Property transfer to private citizens and corporations will not be approved. The subgrantee or other public entity must retain all development rights to the property.
  - e. The subgrantee shall ensure that all structures be removed from the property within 90 days of closing and disposed of in accordance with applicable laws. (The FEMA Regional Director can grant an exception to this requirement if extenuating circumstances exist).
  - f. The subgrantee accepts responsibility for monitoring and enforcing the deed restriction and/or easement language.

Allowable open space uses can include, but are not limited to parks, nature preserves, cultivation, grazing, and unimproved, pervious parking areas. The demolition and debris removal related to acquired structures may be eligible for reimbursement under FEMA's Infrastructure Support program if the structures represent a health and safety hazard. If costs of demolition do not qualify for Infrastructure Support, they can be cost-shared under the Section 404 program. If any parts of the structure are sold for salvage value, this amount is deducted from the total cost of the project.

The Subgrantee (or whoever holds legal title to the property) must provide for the continued maintenance of the property once the initial debris removal, vegetative site stabilization, and new landscaping is complete.

The Director of FEMA may approve, on a case-by-case basis, the erection of structures which do not meet the criteria above before commencement of construction. However, the structure must be constructed in compliance with the community's floodplain



management ordinance, meet NFIP minimum requirements, and be compatible with open space uses and floodplain management policies and practices. A sample warranty deed with the required restrictions is attached as Figure 3.

## H. TREATMENT OF AGRICULTURAL PROPERTIES

A community may include agricultural properties in its acquisition/relocation or elevation project under Section 404. However, due to the large tracts of land and unique issues involved, these projects require special consideration. FEMA suggests that communities work with farm property owners on a case by case basis to negotiate an agreement that is acceptable to the farmer, the community, the state, and FEMA. FEMA requests that the community take into consideration the cost of the project and mitigation benefits to be gained in determining what type of offer to make to a farm property owner, as these factors will be considered by FEMA in its review for funding approval. Methods, which can be used to deal with agricultural property, are listed below, the option selected will depend upon the situation of the farmer and the property.

**Situation 1:** If the farmer is **not** interested in continuing to farm or live on the land:

Option 1. Refer the project to the Natural Resource Conservation Service's Wetland Reserve Program for potential funding.

Option 2. The community can offer to acquire all of the property located within the 100-year floodplain and revert it to another open space use (i.e., wetland, park, nature reserve, etc.). However, the benefit cost ratio of this option must be carefully considered.

Option 3. The community can buy the property, ensure that the required permanent restrictions are placed in the deed, and transfer title to a preservation organization, such as a land trust or a governmental agency.

**Situation 2:** If the farmer wants to continue farming the land, and

*The farmer is interested in continuing to live on the property:*

Option 1. And if the farmer owns a large tract of land, part of which is in the 100-year floodplain and part that is not; then the community can acquire the development rights to the floodplain portion and provide the owner an additional incentive as described in paragraph G. 1. above;

**Or**

Option 2. The community can provide funding to the property owner to elevate the farm home and/or wet flood proof farm buildings to meet NFIP requirements (no deed restrictions are necessary).

*The farmer is not interested in continuing to live on the property:*

Option 3. The community can acquire the development rights to all of the farmer's property located in the 100 year floodplain and contiguous to the residential parcel affected by the disaster and provide the owner with an additional incentive as described in paragraph G. 1. above.

For **Situation 2**, Options 1 and 3:

Cultivation is an acceptable open space use under 44 CFR §206.434. However, some limited crop storage capacity on-site is necessary in order for the farmer to operate successfully. In order to allow limited construction of such storage facilities, FEMA has granted a limited exception to the development restrictions. The exception applies only to projects in which the purchasing community and the seller agree to execute an easement using the language in figure 4 (or a more restrictive version). This language (and the exception) should only be used for the purchase of agricultural property.

**Note:** All options above (except Situation 1, Option 1; and Situation 2, Option 2) require full compliance with the property disposition requirements described in Section G.

## **I. DUPLICATION OF BENEFITS**

In the administration of HMGP grants for property acquisition, FEMA and the grantee should avoid any duplication of benefits with other forms of assistance. FEMA's policy on duplication of benefits for individuals and families is mandated by Section 312 of the Stafford Act and is set forth in 44 CFR §206.191. This Section of the FEMA regulations delineates a delivery sequence establishing the order in which disaster relief agencies and organizations provide assistance to individuals and families. Programs listed later in the sequence are responsible for ensuring that they do not duplicate assistance which should be provided by a program listed earlier on the list (the program with primary responsibility).

For example: Insurance (private and NFIP) is listed as number one in the sequence; the Individual and Family Grant (IFG), which is number four, cannot pay homeowners for damages covered by private homeowner's fire, or national flood insurance. The IFG program is responsible for finding out the amount of the applicant's claim settlements and what damages they covered, and ensuring that it does not provide the applicant duplicative assistance.

In the case of flood-damaged property purchase programs (Section 1362, Section 404, etc.), they are not listed in the delivery sequence, and therefore are positioned after the eight listed programs. This means that all eight programs listed in the sequence at 44 CFR §206.191(d) are "primary programs" in relation to property purchase programs. The property purchase program is required to ensure that it does not duplicate assistance, which should be provided by any of the eight primary assistance programs.

For example: If a homeowner receives funds for structural repairs and also decides to participate in a property purchase program, he or she is entitled to keep the repair grant benefits as long as the funds are used for housing purposes. However, the property purchase program (i.e., Section 404) must reduce its benefit accordingly to avoid duplication.

The procedure for preventing the duplication of primary provider benefits follows:

1. The subgrantee provides the state and/or FEMA with a list of property owners who are participating in the property purchase program.

2. The subgrantee (with the advice and assistance of the state and FEMA) should establish the fair market value of the property.
3. The state and/or FEMA will inform the subgrantee of the amount of assistance (from primary providers) provided to each property owner as a result of the same event initiating the acquisition project.
4. If insurance payments, minimal repair grants, and/or IFG grants were awarded for the purpose of making repairs to a structure, the subgrantee must reduce the purchase offer by the amount of the awards. Reductions should not be taken, however, for repairs that the homeowner can show (with receipts) were actually made.
5. Property owners who have SBA loans are either required to repay the loan or roll it over to a new property at closing.

This procedure does not amount to the repayment of primary provider grant assistance (i.e., IFG, insurance settlements). The property owner may keep these benefits, but the Section 404 program cannot duplicate them by paying full pre-flood fair market value for the property. If the community is paying the post-flood fair market value of the property, no deductions for primary provider benefits are necessary. The process for determining the purchase offer is outlined in a decision tree that is attached as figure 1.

## **J. COSTS AND MATCHING CONSIDERATIONS**

The administration of acquisition and relocation projects can be very complex. This is especially true when determining allowable costs and matches. General policies regarding allowable costs and cost sharing requirements are established in 44 CFR §13.22 and §13.24 respectively. When determining eligible costs, it is important that the scope of the project be well defined. For instance, the application should clearly indicate if any structures will be relocated to new sites, if new sites are to be developed, or if the grant is for property acquisition only. All costs that fit within the defined scope of the project and meet the criteria at 44 CFR §13.22 should be shared on a 75% federal and 25% state or local matching basis.

## **Questions and Answers Regarding Allowable Costs and Matches**

### *1. Can individual property owners provide the match for Section 404 grants?*

Yes, as long as it does not violate state laws and regulations. Individuals may use their own funds to match HMGP funds provided through the community, including loans received from the Small Business Administration (SBA) and Farmer's Home Administration (FHA). In this situation, the cost of the grant would be based on the fair market value of the property and HMGP would provide the subgrantee 75% of that value to purchase the property.

### *2. Can money originating from other federal sources be used to match FEMA Section 404 funds?*

Generally not, however, a subgrantee can use Department of Housing and Urban Development Community Development Block Grant (CDBG) (entitlement and small cities) monies as a match for 404 grant funds for property acquisition programs. Also, SBA and FHA consider their loan funds to lose their federal identity once the loan to the individual is approved. Therefore, as stated above, homeowners can apply their SBA or FHA loans to match HMGP funds.

### *3. Can the subgrantee claim loss of tax revenue (due to taxpayers relocating outside the jurisdiction) as a soft match?*

No. The Office of Management and Budget (OMB) advises that loss of tax revenue does not meet the criteria for a grant match.

### *4. How are the "associated" costs (i.e., legal fees, transfer fees, demolition and removal costs, landscaping, etc.) treated in calculating total project costs*

To avoid confusion, associated costs should be identified in the project application as being within the scope of the project. Associated costs that meet the criteria (44 CFR §13) for allowable costs, referenced above, may be shared on a 75/25 percent matching basis. This includes the cost of "in kind" services performed by the subgrantee. In some cases, the costs of demolition or new infrastructure development may be eligible under the FEMA Public Assistance program.

### *5. If the subgrantee sells or leases a property acquired with HMGP funds can they retain any income from the transaction?*

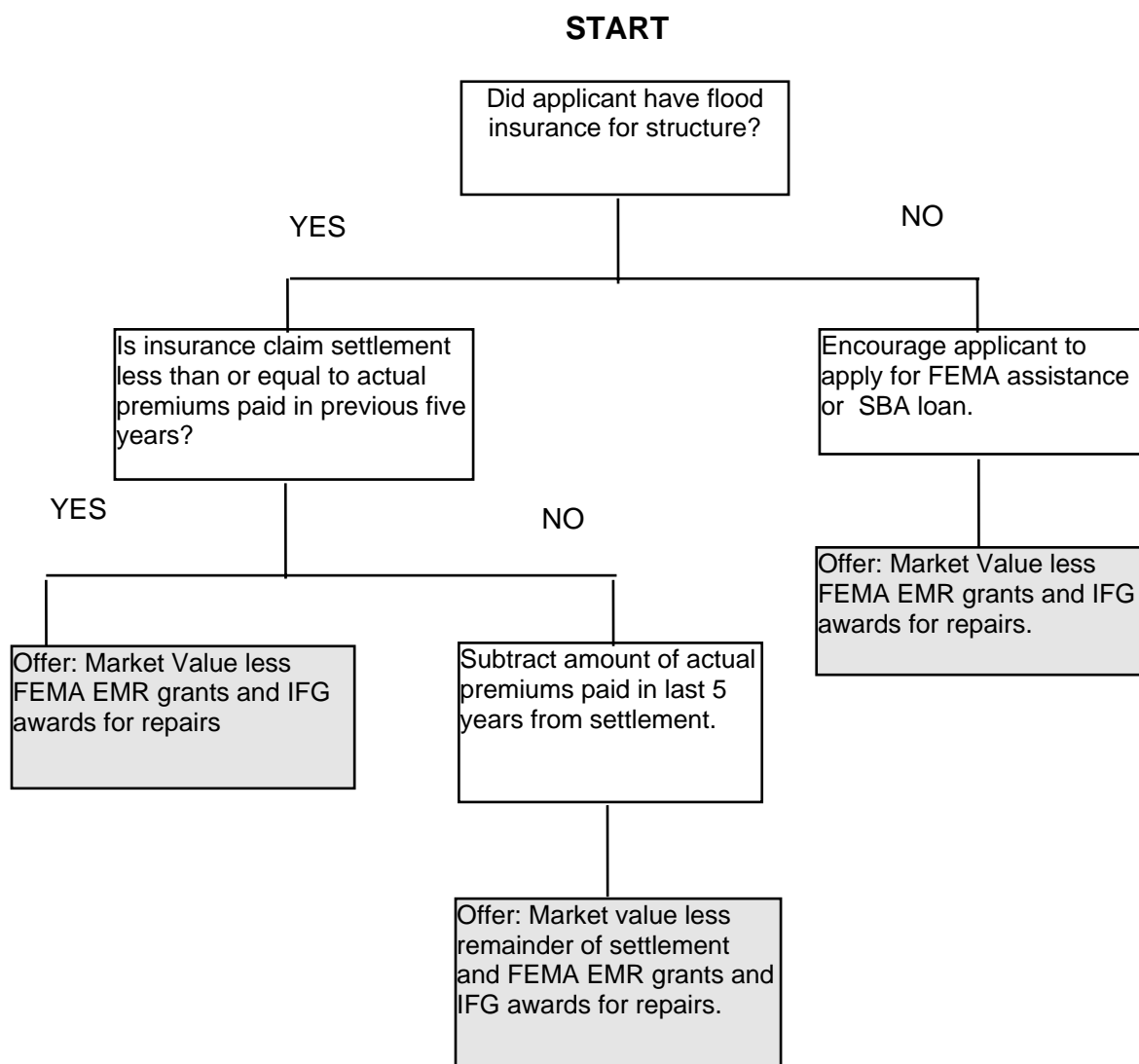
The subgrantee must request the approval of the state and the FEMA Regional Director before conveying the deed to another party (**public entity only**). If the grant period is still open (as indicated in the grant agreement and the final financial report), any income from sale or lease of the land must be deducted from the overall cost of the project. However, once the grant period is ended, any income generated from the property belongs to the titleholder. See 44 CFR §13.25 for further details.

*6. Do the standard wage rate requirements set forth in the Davis-Bacon Act and related Acts apply to HMGP projects?*

Davis-Bacon wage rates apply only to work that FEMA contracts for directly, not to grantee-contracted work. However, standard wage rates do apply to some HUD grant funds depending on the funding program and the type, scope, and size of the project. FEMA should coordinate with HUD field representatives to determine whether the rates apply to specific projects. If standard rates do apply, the additional cost is eligible under the HMGP at the same cost-share as the overall project.

**FIGURE 1**

**Acquisition and Relocation Programs  
Applicant Assistance Decision Tree  
How to Determine Purchase Offer**



EMR: Emergency Minimal Repairs

IFG: Individual and Family Grant

Note: Participants may be required to repay SBA loans at closing

*ADDENDUM 1*  
*44 CFR §206 RIN 3067-A*

Federal Register I-Vol. 59, No. 90 / Wednesday, May 11, 1994 /  
Rules and Regulations 24355

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206 RIN 3067-A

Disaster Assistance; Hazard Mitigation and Relocation Assistance

AGENCY: Federal Emergency Management Agency (FEMA)

ACTION: Interim rule, as amended by Interim Final Rule, February 26, 2002

SUMMARY: This interim rule increases the Federal share for eligible hazard mitigation and relocation assistance projects from a maximum of 50 percent to 75 percent, increases the total amount of grant assistance available for each disaster, and places restrictions on property acquisition and relocation projects. The intent of the changes is to carry out the Hazard Mitigation and Relocation Assistance Act of 1993, which provides new flexibility in hazard mitigation and relocation assistance to States.

EFFECTIVE DATE: May 11, 1994

FOR FURTHER INFORMATION CONTACT:

Robert F. Shea  
Chief  
Program Implementation Division, Room 417  
500 C Street SW  
Washington, DC 20472  
(202) 646-3619

SUPPLEMENTARY INFORMATION: The President signed the Hazard Mitigation and Relocation Assistance Act (the Act) Public Law 103-181 on December 3, 1993. The Act amends Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) 42 U.S.C. 5170c, to increase the Federal contribution to 75 percent, to increase the limit of Federal expenditures, and to place restriction on property acquisition and relocation project grants. The interim rule amends 44 CFR §206 to implement the Act.

We amend the definition of the grant to include the newly established limit on the total grant award. The Act states that the grant award for hazard mitigation shall not exceed 15 percent of the total estimated Federal grant assistance (excluding administrative costs) provided under the Stafford Act. Grant assistance is available under §403, 406, 407, 408, 410, 411, 416 and 601 of the Stafford Act. FEMA will estimate the amount of assistance provided under these sections based on available data summarized in the damage survey reports and the Disaster Management and Projections report. FEMA will include in this total the cost of mission assignments to other agencies that provide functions that would normally be funded as grant assistance. The Act increases from 50 percent to 75 percent the maximum Federal contribution of the cost of hazard mitigation measures and increases total grant awards from 10 percent of §406 to 15 percent of the total estimated Federal Assistance under the Stafford Act.

*ADDENDUM 1*  
*44 CFR §206 RIN 3067-A*

Under the Act FEMA must restrict the eligibility of projects involving property acquisition and relocation assistance for property owners and structures. An eligible applicant must enter an agreement with the Director of FEMA that provides assurances that the property will be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices and no future Federal disaster assistance in any form will be sought or given with respects to the property. No structures can be built on these properties unless they are public facilities and functionally related to open space usage and are open on all sides or are rest rooms.

The Director of FEMA may approve other structures, in writing and before construction begins. The Director's approval will be granted rarely, and when granted, buildings must be compatible with open space, recreational, or wetlands management practices and be in accordance with sound floodplain management.

The Act makes the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 inapplicable to properties damaged by flooding during the 1993 Midwest Floods when certain conditions are met. We define the conditions under which acquisition of certain properties in nine Midwestern States is not subject to the Uniform Relocation Act. The intent and effort of this provision is to simplify and speed the acquisition and relocation process in the nine States severely affected by the Midwest Floods of 1993.

**National Environmental Policy Act** – This rule is excluded for the requirements of 44 CFR §10, Environmental Consideration. No environmental assessment has been prepared.

**Executive Order 12866, Regulatory Planning and Review** – Promulgation of this interim rule is required by statute, 42 U.S.C. 5170 (c), which also specifies the regulatory approach taken in the proposed rule. To the extent possible under the statutory requirements of 42 U.S.C. 5170 (c) this proposed rule adheres to the principles of regulation as set forth in this Executive Order.

**Paperwork Reduction Act** – This rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

**Executive Order 12612, Federalism** – In promulgation, this rule has considered the President's Executive Order 12612 on Federalism. This rule makes no changes in the division of governmental responsibilities between the Federal government and the States. Grant administration procedures under 44 CFR §13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Governments, remain the same. No Federalism assessment has been prepared. (**see EO 13132**)

**Executive Order 12778, Civil Justice Reform** – This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform, dated October 25, 1991, 3 CFR, 1991 Comp. page 359. List of Subjects in 44 CFR §206, Administrative practice and procedure, Community facilities, Disaster Assistance, Grant programs housing and community development, Housing, Natural resources.



*ADDENDUM 1*  
*44 CFR §206 RIN 3067-A*

Accordingly, 44 CFR §206 is amended as follows:

1. The authority citation for §206 continues to read as follows: (amended February 26, 2002)

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

2. Section 206.430 is revised to read as follows:

§206.430 General - This subpart provides guidance on the administration of hazard mitigation grants made under the provisions of section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170c, hereafter Stafford Act, or the Act.

3. Paragraph (c) of Section 206.431 is revised to read as follows: (amended February 26, 2002)

§206.431 Definitions

- (c) *Grant award* means total of Federal and non-Federal contributions to complete the approved scope of work.

4. Paragraphs (b\* as of February 26, 2002) and (c) of section 206.432 are revised to read as follows:

§206.432 Federal Assistance

- (b) *Amounts of assistance.* The total of Federal assistance under this subpart shall not exceed either 15 or 20 percent of the total estimated Federal assistance (excluding administrative costs) provided for a major disaster under 42 U.S.C. 5170b, 5172, 5173, 5174, 5177, 5178, 5183, and 5201 as follows:

- (1) Fifteen (15) percent. Effective November 1, 2003, a State with an approved Standard State Mitigation Plan, which meets the requirements outlined in 44 CFR 201.4, shall be eligible for assistance under the HMGP not to exceed 15 percent of the total estimated Federal assistance described in this paragraph. Until that date, existing, approved State Mitigation Plans will be accepted.
    - (2) Twenty (20) percent. A State with an approved Enhanced State Mitigation Plan, in effect prior to the disaster declaration, which meets the requirements outlined in 44 CFR 201.5 shall be eligible for assistance under the HMGP not to exceed 20 percent of the total estimated Federal assistance described in this paragraph.
    - (3) The estimates of Federal assistance under this paragraph (b) shall be based on the Regional Director's estimate of all eligible costs, actual grants, and appropriate mission assignments.

*ADDENDUM 1*  
*44 CFR §206 RIN 3067-A*

- (c) *Cost Sharing* – All mitigation measures approved under the state’s grant will be subject to the cost sharing provisions established in the FEMA-State Agreement. FEMA may contribute up to 75 percent of the cost of measures approved for funding under the Hazard Mitigation Grant Program for major disasters declared on or after June 10, 1993. The nonfederal share may exceed the Federal share. FEMA will not contribute to costs above the federally approved estimate.

Section 206.434 is amended by redesignating paragraphs (b) through (g) as paragraphs (c) through (h), respectively; adding a new paragraph (b); revising redesignated paragraphs (c) introductory text and (c)(1); and revising redesignated paragraph (d) to read as follows (*amended February 26, 2002*):

§206.434 Eligibility.

- (b) *Plan requirement.*
- (1) For all disasters declared on or after November 1, 2003, local and tribal government applicants for subgrants, must have an approved local mitigation plan in accordance with 44 CFR 201.6 prior to receipt of HMGP subgrant funding. Until November 1, 2003, local mitigation plans may be developed concurrent with the implementation of subgrants.
- (2) Regional Directors may grant an exception to this requirement in extraordinary circumstances, such as in a small and impoverished community when justification is provided. In these cases, a plan will be completed within 12 months of the award of the project grant. If a plan is not provided within this timeframe, the project grant will be terminated, and any costs incurred after notice of grant's termination will not be reimbursed by FEMA.
- (c)(d-new) (4) Property acquisition or relocation, as defined in §206.434(d):
- (d) *(e-new) Property acquisition and relocation requirements* - A project involving property acquisition or the relocation of structures and individuals is eligible for assistance only if the applicant enters an agreement with the FEMA Regional Director that provides assurances that:
- (1) The following restrictive covenants shall be conveyed in the deed to any property acquired, accepted, or from which structures are removed (hereafter called in section (d) the property):
- (i) The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices; and
- (ii) No new structure(s) will be built on the property except as indicated below:
- (A) A public facility that is open on all sides and functionally related to a designated open space or recreational use:
- (B) A rest room, or
- (C) A structure that is compatible with open space, recreational, or wetlands management usage and proper floodplain management

*ADDENDUM 1*  
*44 CFR §206 RIN 3067-A*

policies and practices, which the Director of FEMA approves in writing before the construction of the structure begins.

- (iii) After completion of the project, no application for additional disaster assistance will be made for any purpose with respect to the property to any Federal entity or source, and no Federal entity or source will provide such assistance.
- (2) In general, allowable open space, recreational, and wetland management uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, camping (except when adequate warning time is not available to allow evacuation), temporary storage in the open of wheeled vehicles which are easily movable (except mobile homes), unimproved, pervious parking lots, and buffer zones.
- (3) Any structures built on the property according to paragraph (d)(1) of this section, shall be flood-proofed or elevated to the Base Flood Elevation plus one foot of freeboard.
- (e) (f-new) *Inapplicability of the Uniform Relocation Act* - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1971 does not apply to real property acquisition projects that meet the criteria identified below:
  - (1) The project provides for the purchase of property damaged by the major widespread flooding in the states of Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin during 1993;
  - (2) It provides for such purchase solely as a result of such flooding;
  - (3) It is carried out by or through a state or unit of general local governments;
    - The purchasing agency (grantee or subgrantee) notifies all potential property owners in writing that it will not use its power of eminent domain to acquire the properties if a voluntary agreement is not reached:
    - The project is being assisted with amounts made available for:
      - \* Disaster relief by the Federal Emergency Management Agency;

**OR**

- \* By other Federal financial assistance programs.

**(Catalogue of Federal Domestic Assistance No. 83-516, "Disaster Assistance")**

**Dated: May 4, 1994**

**James L. Witt, Director**

**(FR Doc. 94-11422 Filed 5-10-94; 8:45 am)**

(note: excerpts of amendments from February 26, 2002 have been incorporated.)

*ADDENDUM 2*  
*SAMPLE ACQUISITION LETTER*

Your Community  
Somewhere Washington

Date

Property Owner  
Address  
Somewhere, Washington 98XXX

Dear Mr./Ms. Property Owner:

I have been authorized to enter into negotiations with property owners in the (*city/county - your community*), Washington, for the purpose of purchasing property that has been, or could be, damaged by flooding. Title to such property, if purchased, would be transferred to (*your jurisdiction*), Washington. The acquisition of property can only be accomplished through voluntary sale by you, the property owner. As the (*jurisdiction's*) attorney/agent I will explain your rights and options under this program, present you the Statement of Determination of Compensation and Offer to Sell, as well as handle any negotiations concerning the property.

The information concerning your property and specifically the appraiser's report has been considered and the pre-flood fair market value of your property has been evaluated where possible. The appropriate amount of compensation for your property has been determined and is documented in the enclosed "Statement of Determination for Compensation".

You should carefully review the enclosed material and the "Offer to Sell Real Property" and consider one of the following options which are available to you:

- (1) Make an Offer to Sell Real Property for the amount specified in the Determination of Compensation. If you wish to sell your property for the amount specified in the Determination of Compensation, please sign and return to the (*jurisdiction's*) attorney/agent the enclosed Offer to Sell Real Property in duplicate no later than two weeks after receipt. Once all signed copies are returned to the (*jurisdiction's*) attorney/agent, one copy will be executed and returned to you. Upon receipt the transaction may proceed to closing.
- (2) Reject this invitation to make an Offer to Sell. If you wish to reject this invitation and you do not want to continue negotiation for the sale of your property, then please notify the (*jurisdiction's*) attorney/agent of your decision no later than two weeks after receipt. The acquisition process for your property will be terminated at this point.

*ADDENDUM 2*  
*SAMPLE ACQUISITION LETTER*

- (3) Contest the amount specified in the Determination of Compensation. If you believe that the amount of compensation specified in the Determination of Compensation does not adequately reflect the pre-flood fair market value of your property and you still desire to continue negotiations, then you may contest the determinations by (a) retaining at your own expense a licensed, certified appraiser, to perform a second appraisal, within two weeks of receiving the Offer to Sell; (b) notifying in writing the (*jurisdiction's*) attorney/agent of your decision; and, (c) forwarding the second appraisal once completed to the (*jurisdiction's*) attorney/agent so it can be sent to the state for review, and after reviewed, the (*jurisdiction*) will begin a new negotiation for compensation amount.

Once the new invitation and the amended document are received, you may execute the original or amended Offer to Sell Real Property and mail the offer to the (*jurisdiction's*) attorney/agent within two weeks of receipt, or you may terminate the transaction.

If you have made repairs to your property using some of your flood insurance proceeds or Individual and Family Grant (IFG) structural monies, please present all paid receipts (invoices, canceled checks, etc.) to the (*jurisdiction's*) attorney/agent of the closing meeting. If approved, the offer will be adjusted to reflect the repairs.

As mentioned previously, you will have two weeks after receipt of this material to sign the Offer to Sell Real Property. The (*jurisdiction*) would like to proceed with the process for property purchase as soon as possible; therefore, we would appreciate your early consideration of this matter.

I know this is an important decision for you, therefore, the (*jurisdiction's*) attorney/agent will meet with you personally to present this information and to answer any questions you may have in this matter. I hope we will be able to negotiate the purchase of your property in order to provide you the opportunity to move to a flood-free location. If you have any questions, please contact Mr./Ms. (*jurisdiction representative*) at (123) 555-1212.

Sincerely,

(*Jurisdiction's*) attorney/agent

enclosures

cc: State EMD/HMGP

*ADDENDUM 2*  
*SAMPLE ACQUISITION LETTER*

STATEMENT OF DETERMINATION OF COMPENSATION

- I. Property Location: Somewhere, Washington: Parcel -
- II. Legal Description:
- III. Owner(s) of Record: Mr./Ms. Homeowner
- IV. Interest to be acquired: Fee Simple
- V. Amount of Compensation: \$\_\_\_\_\_. This amount is based on an estimated value of \$\_\_\_\_\_ from which an insurance payment of \$\_\_\_\_\_ has been deducted. It is believed to be just compensation for the property and is not less than the fair market appraisal that was done on your property.
- VII. Description of Appraisal Technique: The amount of compensation disregards any increase in the pre-flood fair market value of the property caused by this project. The amount of compensation is based upon an appraisal which utilized the \_\_\_\_\_ approach for studying the property in the light of its own characteristics and location in relation to sales of other similar sites in the same general area.

The appraisal estimated the fair market value of this property as of (*date*). The definition of Market Value used was:

“The amount of cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy.”

*ADDENDUM 3*  
*SAMPLE VOLUNTARY TRANSACTION AGREEMENT*

AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the (City/County) of \_\_\_\_\_, a municipal corporation, by its agent and attorney, \_\_\_\_\_, hereinafter called the (*JURISDICTION*), and \_\_\_\_\_, hereinafter called SELLER(s).

WITNESSETH:

That the (*JURISDICTION*) is acting under a grant from the Washington State Military Department, Emergency Management Division (EMD), to purchase certain property in the (city/county) of \_\_\_\_\_, \_\_\_\_\_ County, Washington, in which the SELLERS own a parcel as described in Exhibit "1," attached hereto and made a part of.

SELLERS represent that their property is located in the floodplain and qualify for the assistance being granted and are UNDER NO OBLIGATION TO SELL THEIR PROPERTY UNDER THIS PROGRAM, BUT DO SO VOLUNTARILY.

The parties agree as follows:

1. SELLERS have been supplied with a copy of the appraisal of \_\_\_\_\_, said appraisal has been reviewed and approved by EMD, with the established Pre-Flood Fair Market Value (FMV) \$ \_\_\_\_\_ as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
2. SELLERS acknowledge that the price to be paid for clear title is the fair market value with deductions in the amount of \$ \_\_\_\_\_ for any flood insurance payment received by SELLERS for structural damage and \$ \_\_\_\_\_ for which the Individual Assistance (IA) program for which the SELLER cannot document as expended on repair of the damaged structure.
3. SELLERS agree that they will, in writing, furnish to the (*JURISDICTION*) within five (5) days from the date of this AGREEMENT, a list of all liens of any kind known to the SELLERS, including but not limited to mortgages, mechanics liens, judgment liens, and past due taxes.
4. It is understood by all parties that the proceeds from the sale shall first be applied to all liens on the property, including real estate taxes for the entire year 20\_\_\_\_. It is further understood that the Hazard Mitigation Grant Program (HMGP) funds being used for the purchase of the property, cannot and will not duplicate benefits received for the same from any other funds. SELLERS will return any disaster aid money received if it constitutes a duplicity of benefits.

*ADDENDUM 3*  
*SAMPLE VOLUNTARY TRANSACTION AGREEMENT*

5. SELLERS understand and agree that any replacement housing purchased with EMD monies WILL NOT BE IN ANY FLOOD ZONE A (100 year flood zone) as identified in the Flood insurance Rate Maps of any applicable jurisdiction.
6. SELLERS agree they will execute all necessary documents to transfer title to the property to the (*JURISDICTION*) and also agree to execute now and in the future, any and all documents required by the (*JURISDICTION*) or EMD to complete this transaction and to comply with City, County, State and Federal regulations.
7. No fixtures, materials or improvements to the real estate shall be removed from the premises, and, because of legal liability reasons, the (*JURISDICTION*) will not permit any materials to be salvaged at this time or at the time of demolition. Any violation of this agreement may result in changing the fair market value of the structure. The value of any property removed will be solely determined by the (*JURISDICTION*) and will be deducted from the purchase price, if the purchase price has not yet been paid in full, or must be repaid by the SELLER within ten (10) days after removal if the purchase price has been paid to the SELLER.
8. SELLERS represent unto the (*JURISDICTION*) that they will vacate the property at the time of closing.
9. SELLERS acknowledge that they have had an opportunity to review this contract and they have had an opportunity, if they so choose, to contact an attorney of their choice to review this AGREEMENT, and enter into the AGREEMENT fully understanding the nature thereof and saves and holds harmless the (*JURISDICTION*), or any representative, of any liability or responsibility as a result of this contract or anything incident to the sale.

This AGREEMENT is binding upon the heirs, executors, successors and assigns all parties.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

SELLER (S) \_\_\_\_\_

(City/County) of \_\_\_\_\_, a municipal corporation

By: \_\_\_\_\_



*ADDENDUM 3*  
*SAMPLE VOLUNTARY TRANSACTION AGREEMENT*

HAZARD MITIGATION GRANT PROGRAM

For projects that involve the acquisition/relocation of properties in the floodplain, the following eligibility criteria and assurances from 44 CFR §206.434 (d, *e-new*, 2/26/02) apply:

1. The following restrictive covenants shall be conveyed in the deed of any property acquired, accepted, or from which structures are removed (hereafter called the property).
  - a. The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices; and
  - b. No new structure(s) will be built on the property except as indicated below:
    - (1) A public facility that is open on all sides and functionally related to a designated open space or recreation use;
    - (2) A restroom; or
    - (3) A structure that is compatible with open space, recreational, or wetlands management usage and proper floodplain management policies and practices which the Director approves in writing before the construction of the structure begins.
  - c. After completion of the project, no application for additional disaster assistance will be made for any purpose with respect to the property to any federal entity or source, and no federal entity or source will provide such assistance.
2. In general allowable open space, recreational, and wetland management uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, camping (except where adequate warning time is not available to allow evacuation), temporary storage in the open of wheeled vehicles which are easily movable (except mobile homes), unimproved, pervious parking lots, and buffer zones.
3. Any structures built on the property shall be flood-proofed or elevated to the Base Flood Elevation plus one foot of freeboard.

*ADDENDUM 4*  
*ATTACHMENT TO DEEDS FOR FEE SIMPLE ACQUISITIONS*

For fee simple acquisition (acquiring title to land), use Exhibit A

1. FEMA Regional Director should concur on the state-applicant agreement that must reference and attach Exhibit A in the deed and record it with the deed.
2. The applicant shall reference Exhibit A in the deed and record it with the deed.

**EXHIBIT A**

In reference to the Deed between [*the property owner*] participating in the FEMA/ State of Washington Military Department, Emergency Management Division acquisition project “The Grantor” and [*the City of .....*], referred to as “The Grantee”

WHEREAS, The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended (“The Stafford Act”), identifies the use of disaster relief funds under Section 404 (Hazard Mitigation Grant Program, “HMGP”), including the acquisition and relocation of structures in the floodplain;

WHEREAS, Section 404 of the Stafford Act provides a process for a community, through the state, to make application for funding to be used to acquire interests in property, including the purchase of structures in the floodplain, to demolish and/or remove the buildings, and to convert the land use into perpetual open space;

WHEREAS, the Washington State Military Department, Emergency Management Division (“DEPARTMENT”) has made such application and has entered into a Federal-State Agreement dated [*DATE* as amended] and herein incorporated by reference;

WHEREAS, the [*City of .....*], acting by and through the (council/board/commission), has entered into a cooperative grant agreement with the DEPARTMENT dated [*DATE*] (“Grant Agreement”), and herein incorporated by reference -- [include when attached to deed];

WHEREAS, the terms of the Stafford Act, regulations promulgated thereunder (44 C.F.R. § 206.434), and the Federal-State Agreement require that the Grantee agree to conditions which are intended to restrict the use of the land to open space in perpetuity in order to protect and preserve natural floodplain values; and

*ADDENDUM 4*  
*ATTACHMENT TO DEEDS FOR FEE SIMPLE ACQUISITIONS*

NOW, THEREFORE, the grant is made subject to the following terms and conditions:

1. Terms. Pursuant to the terms of the Stafford Act, regulations promulgated thereunder (44 CFR §206.434), as they read now and may be amended in the future, and the Federal-State Agreement, the following conditions and restrictions shall apply in perpetuity to each property described in the attached deed and acquired by the Grantee pursuant to the Stafford Act § 404:
  - (a) Compatible uses: The land shall be used only for purposes compatible with open space, recreational, or wetlands management practices; in general, such uses include parks for outdoor recreation activities, nature reserves, unimproved pervious parking lots and other uses described in 44 CFR § 206.434, as it reads now and may be amended in the future.
  - (b) Structures: No new structures or improvements shall be erected on the property other than:
    - (i) a public facility that is open on all sides and functionally related to the open space use;
    - (ii) a rest room; or
    - (iii) a structure that is compatible with the uses described in Paragraph 1 (a), above, and approved by the FEMA Regional Director in writing prior to the commencement of the construction of the structure. Any structures built on the property according to this paragraph shall be flood proofed or elevated to the Base Flood Elevation plus one foot of freeboard.
  - (c) Disaster Assistance: No future disaster assistance from any Federal Source for any purpose related to the property may be sought, nor will such assistance be provided;
  - (d) Transfer: The Grantee agrees that it shall convey any interest in the property only with prior approval of the transferee from the Regional Director of FEMA and only to another public entity or to an organization qualified under Section 170 (h) of the Internal Revenue Code of 1954, as amended, and applicable regulations promulgated thereunder. However, the Grantee may convey a lease to a private individual or entity for purposes compatible with the uses described in Paragraph 1 (a), above, including agriculture, with the prior approval of the Regional Director.

Title to the property must be conveyed subject to a Conservation Easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth herein, including the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:

*ADDENDUM 4*  
*ATTACHMENT TO DEEDS FOR FEE SIMPLE ACQUISITIONS*

- (i) the Grantee shall convey, in accordance with section (d), above, a conservation easement to someone other than the title holder, or
  - (ii) at the time of title transfer, the Grantee shall retain such conservation easement, and record it with the deed.
- 2. Inspection: FEMA, its representatives, and assignees, including the DEPARTMENT, shall have the right to enter upon the property, at reasonable times and with reasonable notice, for the purpose of inspecting the property to ensure compliance with the terms of the grant.
- 3. Enforcement: If the subject property is not maintained according to the terms of the grant, FEMA, its representatives, and assignees, the DEPARTMENT and the Grantee are responsible for taking measures to bring the property back into compliance.
  - (a) The DEPARTMENT will notify the Grantee in writing and advise the Grantee that they have 60 days to correct the violation.
  - (b) If the Grantee fails to demonstrate a good faith effort to come into compliance with the terms of the grant within the 60-day period, the DEPARTMENT shall enforce the terms of the grant by taking any measure it deems appropriate, including but not limited to bringing an action at law or in equity in a court of competent jurisdiction.
  - (c) FEMA may enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to the following:
    - (i) requiring transfer of title in accordance with Paragraph 1 (d). The Grantee shall bear the costs of bringing the property back into compliance with the terms of the grant; or
    - (ii) bringing an action at law or in equity in a court of competent jurisdiction against the DEPARTMENT or the Grantee.
- 5. Severability: Should any provision of this grant or the application thereof to any person or circumstance is found to be invalid or unenforceable, the rest and remainder of the provisions of this grant and their application shall not be affected and shall remain valid and enforceable.

**[Signed by Grantor(s) and Grantee, witnesses and notarization in accordance with local law.]**

